

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

UNITED STATES OF AMERICA	§	
Vs.	§	CRIMINAL ACTION NO. 6:11CR126
ARTHUR JOHN ORMANIAN	§	

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

On November 15, 2012, the Court referred an ancillary forfeiture proceeding in the above-styled case to the undersigned. Specifically, the Court referred the Petition of Hopkins County, TX, et al. for Adjudication of Interest in Property (document #42).

A Judgment was entered on November 8, 2012, finding Defendant guilty as to Count 2 of the Indictment. Among other items, Defendant forfeited his interest in real property located at 1255 College Street, Sulphur Springs, Hopkins County, Texas 75842, further described as: LOT: 7, BLK: 305, TOWN: SULPHUR SPRINGS, 130X160.80. A Final Order of Forfeiture was filed on November 13, 2012, that included the Sulphur Springs property. In their petition, the Hopkins County taxing authorities seek recognition of the existence and validity of their tax liens and payment of taxes, penalties and interest from the proceeds of any sale of the property. Two additional petitions asserting an interest in the subject property were filed after the Final Order of Forfeiture was filed. On November 26, 2012, Heather Marie Ormanian filed a Petition for Adjudication of Interest in Property, asserting that she is in possession of the Sulphur Springs

property and has been making mortgage payments on the property since October 2011. On November 27, 2012, Third Party Plaintiff CitiFinancial, Inc. filed a Petition Regarding Interest in Forfeited Real Property and Motion to Set Aside, or Alternatively, Amend the Final Order of Forfeiture (document #53). CitiFinancial asserts that it has a valid first lien on the property.

Subsequently, on December 11, 2012, the Government filed a Motion to Dismiss Property From Forfeiture (document #55). The motion seeks to rescind the portion of the Final Order of Forfeiture relating to the real property described as 1255 College Street, Sulphur Springs, Hopkins County, Texas 75842, further described as: LOT: 7, BLK: 305, TOWN: SULPHUR SPRINGS, 130X160.80. Having determined that the real property is encumbered with liens, the Government requests that the subject property be dismissed from all forfeiture proceedings in connection with this matter.

Recommendation

It is recommended that the Motion to Dismiss Property From Forfeiture (document #55) be granted and that an Amended Final Order of Forfeiture be filed removing the real property described as 1255 College Street, Sulphur Springs, Hopkins County, Texas 75842, further described as: LOT: 7, BLK: 305, TOWN: SULPHUR SPRINGS, 130X160.80 from the Listed Property subject to forfeiture. Upon the granting of the Motion to Dismiss Property From Forfeiture, the three pending ancillary forfeiture proceedings shall be rendered moot.

Within fourteen days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge.

A party's failure to file written objections to the findings, conclusions and recommendations contained in this Report within fourteen days after service shall bar that party from *de novo* review

by the district judge of those findings, conclusions and recommendations and, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Assn.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

So **ORDERED** and **SIGNED** this **12** day of **December, 2012**.



JUDITH K. GUTHRIE
UNITED STATES MAGISTRATE JUDGE